IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.4894 OF 2005

Rafik Dastagir Sapsagar ...Applicant
Vs.
The State of Maharashtra ...Respondent

Shri. S.A. Ingawale for the Applicant.
Ms M.H. Mahtre, A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATE : AUGUST 26, 2005.

P.C.:

1. Heard Advocate appearing for the Applicant and the learned A.P.P. for the State. The learned A.P.P. has placed on record affidavit of the Investigating Officer setting out the reasons for remaining absent in this Court. In view of what is stated in paragraph No.3 of the affidavit, explanation of the Investigating Officer deserves to be accepted. Accordingly, explanation is accepted and no further action is called for.

2. On the basis of a private complaint filed, an order was made under section 156(3) of the Code of Criminal Procedure, 1973 directing investigation. Accordingly, F.I.R. was registered by the police.

3. In the private complaint, the Applicant is not named as accused. The learned A.P.P. has placed on record the material collected during the investigation. I find that except for alleged statement of co-accused, there is absolutely no

material collected during the investigation by the police against the Applicant. However, the investigation appears to be in progress. If some material is collected by the prosecution warranting action of arrest against the Applicant, the prosecution is entitled to do so. However, at present I find that there is no material against the Applicant requiring his custodial interrogation.

4. Hence, this Application is disposed of by directing that in the event the Respondent-State desires to arrest the Applicant, seventy two hours clear notice will be given to the Applicant. It is obvious that if such notice is given, the Applicant will be entitled to apply for Anticipatory Bail in the appropriate Court.

JUDGE